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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/735,282      | 12/12/2003  | William A. Gardner   | GAR1756.17A5        | 3233             |

8156 7590 09/08/2005

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| EXAMINER |
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CRONIN, STEPHEN K

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| ART UNIT | PAPER NUMBER |
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3727

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/735,282

Applicant(s)

GARDNER ET AL.

Examiner

Stephen K. Cronin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 78-138 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 78-86, 89-92, 96-110, 112, 115-123, 126-128 and 132-138 is/are rejected.
- 7) ☒ Claim(s) 87, 88, 93-95, 111, 113, 114, 124, 125 and 129-131 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Inventorship***

1. In view of the papers filed July 22, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the deletion of Paul K. Novak as an inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 78-86 and 96-97 are rejected under 35 U.S.C. 102(b) as being anticipated by Ligeras 6,029,836.

Ligeras teaches a wine cap and bottle comprising a threaded bottle 14, an anchor with a shank and head 42, a threaded sleeve 32, a stopper 40, and a flange/cap 28.

4. Claims 89-92, 96, 105-110, 112, 115, 116, 126, 127, 132, 133 and 134 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolkonsky 4,493,427.

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Wolkonsky teaches a cap and flask comprising a threaded bottle 11, a threaded sleeve 9, a flange/cap 7, a stopper with a protruding head 13, a flange engagement means for engaging the stopper 15, and a seal 37.

5. Claims 89, 96-104, 115, 116, 126, 127 and 132-135 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliver et al. 4,446,980.

Oliver teaches a bottle cork extractor comprising a threaded bottle 13, a threaded sleeve 19, a flange 20, means for engaging the stopper 24, and a protruding stopper 17 with a recessed ring 24.

6. Claims 115-119, 121-123, 126-128, 132-136 and 138 are rejected under 35 U.S.C. 102(b) as being anticipated by Reid 5,662,233.

Reid teaches a wine bottle closure comprising a threaded bottle 26, a protruding stopper 25, a threaded flange 16 with stopper engagement fingers 37 and a flange/cap 15, 57.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 120 and 137 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reid 5,662,233 in view of Oliver et al. 4,446,980.

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Natural cork and polymer are well known material substitutes for forming wine stoppers in the art as shown by the references noted above. To substitute one material for the other would have been old and well known by those of ordinary skill in the art.

***Allowable Subject Matter***

9. Claims 87, 88, 93-95, 111, 113, 114, 124, 125 and 129-131 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen K. Cronin whose telephone number is 571-272-4536. The examiner can normally be reached on M-F 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen K. Cronin  
Primary Examiner  
Art Unit 3727

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